

MEETING  
OF THE  
BOARD OF ZONING APPEALS  
VILLAGE OF NISSEQUOGUE

December 13, 2021

7:32 p.m.

P R E S E N T:

MICHAEL FAZIO - Chairman

CRISTOFER DAMIANOS

WILLIAM KENT

RONALD ROTHMAN

SUZY CIMINO McGARRIGAL, Secretary

APPEAL OF  
LUKASZ CZERWONKA & CHRISTINE VAN BOXTEL

DEBORAH KNIESSER - COURT REPORTER

1 CZERWONKA/VAN BOXTEL

2 THE CHAIRMAN: This is the  
3 Nissequogue Village Board of Zoning  
4 Appeals. You've met all of us.

5 This is Chris Damianos; Ronald  
6 Rothman; Bill Kent; myself, Michael  
7 Fazio; and Desmond Murphy should be  
8 showing up. If you didn't notice, he's  
9 the guy with the brogue.

10 The purpose of this -- this is a  
11 hearing. And I'm going to read the  
12 purpose of it from -- from the letter  
13 of denial that you received.

14 So you had an application -- and  
15 by the way, this is Lukasz Czerwonka  
16 and Christine Van Boxtel of 4 Beach  
17 Plum Lane who are applying for this  
18 variance.

19 The map number -- the Suffolk  
20 County Tax Map Number is 802-6-3-5.  
21 This is 4 Beach Plum Lane. An  
22 application to add a two-story addition  
23 and garage, to replace existing  
24 windows, replace exterior finishes,  
25 replace roof and decks, is denied for

DEBORAH KNIESSER - COURT REPORTER

1 CZERWONKA/VAN BOXTEL

2 zoning.

3 The applicants are seeking two  
4 variances. The first, Village Code  
5 128-24 B(5), requires a side-yard  
6 setback of 30 feet and 30 feet not less  
7 than 60. And the applicant has an  
8 existing setback of 20 feet and 19.5  
9 setback for a total of 39.5. That  
10 total is existing. Those numbers are  
11 currently existing, and they're seeking  
12 to get approval -- re-approval for  
13 that.

14 The second variance is Village  
15 Code 128-24 B(10) that requires that  
16 for a two-story structure including the  
17 garage, the square footage, floor area,  
18 shall not exceed 8 percent of the  
19 square footage of the lot. And the  
20 applicant proposes square footage which  
21 is 18.33 percent of the square footage  
22 of lot. That's what the application is  
23 for.

24 Debbie is the reporter. This is a  
25 public hearing, and the public, of

DEBORAH KNIESSER - COURT REPORTER

1 CZERWONKA/VAN BOXTEL  
2 course, is invited as you know. And a  
3 record is kept, and that's the purpose  
4 of the recording secretary.

5 And it also has been publically  
6 noticed in the form of posting around  
7 the Village. Actually, it's posted  
8 here in front of the Village Hall, and  
9 there's an affidavit to that effect.  
10 There's also an affidavit of  
11 advertisement in the Smithtown News.  
12 And it's also posted on the Village  
13 website.

14 Our procedure is for you to  
15 present your case. And there's only  
16 two of you, so it's not going to be too  
17 difficult for one person to speak at a  
18 time. So just make sure that Debbie  
19 hears what you have to say. And  
20 following that -- so far there's no one  
21 here to speak in favor of you or in  
22 opposition -- the Board members may  
23 have questions or comments.

24 Okay. So with that, I also want  
25 to tell you that we're required to give

1                  CZERWONKA/VAN BOXTEL  
2                  you a decision within 60 days. We  
3                  normally wait for the return of minutes  
4                  from the reporter. It usually takes 10  
5                  days to two weeks. And shortly after  
6                  that, a decision is rendered and you  
7                  will receive notification on that  
8                  decision; okay? So that's -- that's  
9                  how we proceed.

10                  Okay. So with that, you can...

11                  MR. CZERWONKA: Sure.

12                  So we have a packet I'm kind of  
13                  organizing a little bit. I'll try to  
14                  go through -- I think there's, like,  
15                  four items for the variance, the reason  
16                  for the variance. We have some of the  
17                  numbers in here.

18                  So it says that we need to have a  
19                  financial hardship or practical  
20                  difficulty. Our financial hardship for  
21                  this is we feel that a house renovation  
22                  for a home in this area of this size,  
23                  this location, would be greatly  
24                  diminished if we did not enlarge the  
25                  master-bedroom suite, make a modern

1 CZERWONKA/VAN BOXTEL

2 kitchen. We'd like to have a powder  
3 room, an extra bathroom for guests.

4 THE CHAIRMAN: Excuse me, are you  
5 reading from this?

6 MR. CZERWONKA: Yes.

7 THE CHAIRMAN: You'll also want to  
8 submit this as evidence into the  
9 minutes.

10 MR. CZERWONKA: And extend the  
11 garage for -- we live close to the  
12 beach -- for beach gear, equipment.

13 MS. VAN BOXTEL: And also, because  
14 we're planning to move the utilities  
15 out of the basement -- we don't want to  
16 have the furnace and the water heater  
17 in the basement. We do live close to  
18 the beach in a flood zone, so it would  
19 make sense not to have that stuff in  
20 the basement. It's pretty important.

21 MR. CZERWONKA: And then, you  
22 know, the difficulty is -- the square  
23 footage on this lot, as I mentioned  
24 before, is smaller than the minimum  
25 floor area required in Nissequogue.

DEBORAH KNIESSER - COURT REPORTER

1 CZERWONKA/VAN BOXTEL

2 There's no way to build on this lot  
3 without some type of variance, either a  
4 minimum or maximum.

5 The reason we feel that this  
6 hardship is unique on this property is  
7 that most of the lots in the  
8 neighborhood are below the one acre and  
9 do not conform to the required  
10 setbacks. I have some diagrams here to  
11 show you that most of the houses do not  
12 conform. And many of the houses are  
13 actually larger and have a larger  
14 square-foot percentage.

15 And then the subdivision was, I  
16 believe, created prior to current  
17 zoning regulations because of that  
18 8-percent rule. So we believe it  
19 should be applied.

20 The essential character of the  
21 neighborhood, as I said, there's  
22 similar setbacks on -- on -- for most  
23 of the lots. Many of the home are  
24 larger, especially -- and homes  
25 undergoing renovation in Nissequogue

DEBORAH KNIESSER - COURT REPORTER

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CZERWONKA/VAN BOXTEL

appear -- are usually larger as well as homes undergoing new construction.

We don't feel that this hardship was self-created as, again, the subdivision was created before the regulations were set in place.

So on the next page I have what the requirements are, what the current setbacks and sizes are, so that -- we really are in an R-1 district, so the requirement for a one-acre lot is .47 acres. So you can see the lot width is a little bit smaller, the lot that actually conforms.

The minimum side yards are less, like we said. They're supposed to be 30 feet but they're only 20 feet. We are not changing that.

The minimum rear-yard setback is fine. The maximum height is fine. And then the minimum floor area we meet because we're above the 1,800 square feet.

But the maximum floor area is too



1 CZERWONKA/VAN BOXTEL  
2 high by the code, as there would only  
3 be a -- only a 1,600 square-foot house  
4 is allowed. Our current house is  
5 2,600. We propose to enlarge it to  
6 3,700 square feet, 18.3 percent.

7 I just have here a little bit  
8 about the lot coverage because you  
9 mentioned that the building envelope  
10 might be part of the problem. But  
11 actually the building envelope for this  
12 house would be 40 by 100 feet on the  
13 site plan which would allow a  
14 4,000-square foot house. So it's not  
15 the building envelope that's the  
16 problem, it's really the 8-percent  
17 rule.

18 The -- the proposed lot coverage  
19 on our house is -- I thought I  
20 mentioned that in here -- is actually  
21 2,200 square feet. It's at the top. A  
22 lot of places usually calculate the lot  
23 coverage rather than the total square  
24 footage of the building. The -- our  
25 lot coverage is 2,200 square feet. On

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CZERWONKA/VAN BOXTEL

a typical R-1 District lot, the lot coverage would be about 2,600 feet. So the actual house lot coverage isn't that large.

And then in comparison to surrounding houses, so our -- it's a little hard to compare because the way the square footage is calculated, most people don't list square footages with included garage. So I separated out the garage from the house.

Our -- our current house is 2,200 square feet. We propose a 3,000-square-foot house plus a 700 square foot -- 770-square-foot garage. That would bring the percentage of the house to 14.5 percent, 18.3 with the garage.

There's been obviously an approved variance on our street on 12 Beach Plum Lane for a 3,300-square-foot house with an 800-square-foot garage on a same-sized lot. So that is actually larger than our house that we're

DEBORAH KNIESSER - COURT REPORTER

1 CZERWONKA/VAN BOXTEL

2 proposing.

3 And then in the surrounding  
4 houses, you can see our neighbors in  
5 front of us have a 4,000-square-foot  
6 house plus a garage. It has a bigger  
7 lot, but that house also exceeds -- if  
8 you were to include the garage, it  
9 would be over 10 percent.

10 THE CHAIRMAN: Which is the one  
11 that's in front of you?

12 MR. CZERWONKA: That's the one  
13 that's right on the water, 2 Beach  
14 Plum. A 4,000-square-foot house.

15 14 Beach Plum is a  
16 3,200-square-foot house plus a garage,  
17 so that's also larger than what we're  
18 proposing. The house percentage is  
19 over 14.8 percent.

20 There's another neighbor that I  
21 was able to find. Their house is 2,600  
22 square feet plus garage. Again, over  
23 8 percent. They're over 12 percent  
24 plus the garage.

25 THE CHAIRMAN: That's interesting

1 CZERWONKA/VAN BOXTEL

2 that these numbers that you got from  
3 the surrounding houses.

4 MR. CZERWONKA: Yes.

5 THE CHAIRMAN: The house is one  
6 size, but definitively in the ordinance  
7 it says the FAR is the house and the  
8 garage. Very specifically says that.

9 MR. CZERWONKA: Yeah.

10 THE CHAIRMAN: So how are these  
11 numbers arrived at --

12 MR. CZERWONKA: These are --

13 THE CHAIRMAN: -- if they don't  
14 include --

15 MR. CZERWONKA: They don't include  
16 the garage. These houses are at  
17 least -- these houses are at least 10  
18 percent, at 14.8 percent, but they're  
19 larger because they don't -- most  
20 people don't list their garage size in  
21 their square-footage calculations.

22 THE CHAIRMAN: So how did you  
23 obtain these number?

24 MR. CZERWONKA: These are from,  
25 like, house listings from Zillow and

1                  CZERWONKA/VAN BOXTEL  
2                  from the Long Island House Listings.  
3                  When these houses were for sale, this  
4                  is where the house square footage was  
5                  listed.

6                  THE CHAIRMAN:  Okay.  
7                  Realtors?

8                  MR. CZERWONKA:  Realtors, yeah.  
9                  And then GIS Viewer for Suffolk  
10                 County, that's, like, an information  
11                 service you can take a look at the  
12                 lots.

13                 The lot lines are incorrect on the  
14                 GIS Viewer.  But you can see most of  
15                 the setbacks between houses are --  
16                 they're all less than -- in the  
17                 surrounding area, they're all less than  
18                 50 feet.  So the combined setbacks  
19                 are -- no one really has a setback -- a  
20                 side-yard setback of 30 feet or more.  
21                 They're mostly 15 to 25 feet.

22                 MR. DAMIANOS:  Is one of these  
23                 houses yours?

24                 MR. CZERWONKA:  Yes.  Our house is  
25                 on the top left.

1 CZERWONKA/VAN BOXTEL

2 MS. VAN BOXTEL: It's Lot 6 but  
3 it's actually ours because the lot  
4 lines are all shifted.

5 MR. DAMIANOS: The one that is  
6 29.1?

7 MS. VAN BOXTEL: Yes.

8 MR. CZERWONKA: Yeah, that's the  
9 space between our house and our  
10 neighbor. She has a variance for her  
11 garage. Her garage is pretty close to  
12 the lot line.

13 MS. VAN BOXTEL: Now it's five  
14 feet closer. So it was 20 and now it's  
15 15.

16 THE CHAIRMAN: Is that  
17 Nancy Fetherston's house?

18 MS. VAN BOXTEL: Yes.

19 MR. KENT: I believe that, if I'm  
20 not mistaken, a number of the variances  
21 that took place on these homes were  
22 done early on many years ago. I'm not  
23 recognizing really the amount of -- the  
24 depth of the setbacks on -- on those  
25 times -- during those times which could

1 CZERWONKA/VAN BOXTEL

2 be 30, 40, 50 years ago. So times do  
3 change. Things do change.

4 MR. CZERWONKA: Yes.

5 MR. KENT: And usually and  
6 hopefully for the better.

7 Needless to say, when you  
8 purchased this home -- three years ago  
9 I understand?

10 MR. CZERWONKA: Yes.

11 MR. KENT: You did your due  
12 diligence I'm sure, because you had an  
13 idea when you looked at the house  
14 that -- I know I did it every time I  
15 bought a house, I would love to do this  
16 to it and that to it -- but not knowing  
17 what you could do and what you couldn't  
18 do, you were taking a chance.

19 MR. CZERWONKA: Yeah. We did not  
20 imagine that, you know, the house was  
21 already so far oversize-wise for the  
22 neighborhood and the setbacks were, you  
23 know, off.

24 We didn't realize that this  
25 neighborhood had such weird zoning

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CZERWONKA/VAN BOXTEL

because it seemed like -- I'm not even sure how the whole neighborhood was allowed, the subdivision in this neighborhood.

THE CHAIRMAN: So this neighborhood historically was a summer-beach-resort kind of thing, second-home situation. And it was half-acre zoned at one point. And then it was up-zoned to one acre I think in 1990, '91. And that changed things radically for a while.

MR. CZERWONKA: So there was half-acre zoning at one point?

THE CHAIRMAN: Sorry?

MR. CZERWONKA: There was half-acre zoning here at one point?

THE CHAIRMAN: It was half-acre zoned, yes, with those 30-foot side-line setbacks. That was there.

MR. CZERWONKA: That was required?

THE CHAIRMAN: And I think it was a 50-foot rear-yard setback as well as front. I think it was also 50.

DEBORAH KNIESSER - COURT REPORTER



1 CZERWONKA/VAN BOXTEL

2 MR. CZERWONKA: Yeah, which is  
3 what I think it is right now.

4 THE CHAIRMAN: So that has  
5 changed. I think it's 80 foot.

6 MR. CZERWONKA: That's for R-2.  
7 R-1, I think, is still 50 feet. I have  
8 the totals here. I have it on  
9 something.

10 So this -- it's interesting when  
11 the zoning was changed it did not  
12 accommodate this neighborhood. Because  
13 it seems like -- I think on every  
14 single house or every single lot on  
15 this street is non-conforming.

16 THE CHAIRMAN: Well, the biggest  
17 issue for us would be the floor area.  
18 And in all honesty, it's not a big  
19 issue in terms of what we have seen and  
20 approved.

21 From your -- your neighbor down  
22 the street, number 12 I guess it is?

23 MR. CZERWONKA: Yes.

24 THE CHAIRMAN: They've gotten  
25 approval for a larger floor -- FAR,

1 CZERWONKA/VAN BOXTEL

2 floor-area ratio. So that would be the  
3 thing to consider.

4 As for your side lines, I guess  
5 you've been through a lot about whether  
6 or not you need to apply for a  
7 variance?

8 MR. CZERWONKA: Yeah. It was a  
9 lot of back and forth.

10 THE CHAIRMAN: Yeah.

11 MR. CZERWONKA: We were hoping to  
12 get a meeting a month ago, so it was so  
13 much back and forth.

14 THE CHAIRMAN: And there seems to  
15 be varying opinions on that, in that if  
16 you're not changing the footprint or  
17 making the home more non-conforming,  
18 there would be no reason for a  
19 variance.

20 And there are other opinions that,  
21 say, any time that you have a  
22 non-conforming situation and you want  
23 to do anything, you need to have a  
24 variance.

25 So those are the two opinions that

1 CZERWONKA/VAN BOXTEL

2 you came into. And here we are.

3 So is there anything more you'd  
4 like to add?

5 MR. CZERWONKA: No, that's it.

6 I have a picture of the street if  
7 you want to see the houses in  
8 comparison.

9 THE CHAIRMAN: What is the current  
10 square footage -- and I see it's about  
11 13 percent?

12 MR. CZERWONKA: 13 percent, yeah, .

13 THE CHAIRMAN: And you're seeking  
14 18 percent?

15 MR. CZERWONKA: Yes.

16 THE CHAIRMAN: The number 12 got  
17 19 percent, and I think it was this  
18 year. I don't know when that hearing  
19 was, but I think it was earlier this  
20 year.

21 So here we are, folks.

22 Any other comments that you guys  
23 would like to make?

24 MR. DAMIANOS: No.

25 THE CHAIRMAN: I don't see any

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CZERWONKA/VAN BOXTEL

reason for us to continue this hearing  
unless someone else has something to  
say.

So we've got to make a motion to  
close the hearing.

MR. KENT: Motion.

MR. DAMIANOS: Second.

MR. ROTHMAN: Second.

THE CHAIRMAN: We have agreed.

MR. CZERWONKA: Thank you very  
much, guys.

(Whereupon, at 7:51 P.M., this  
hearing was concluded.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

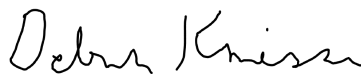
STATE OF NEW YORK)  
  :  SS.:  
COUNTY OF SUFFOLK)

I, DEBORAH C. KNIESSER, Court Reporter  
and Notary Public for and within the State  
of New York, do hereby certify:

That the within transcript was prepared  
by me and is a true and accurate record of  
this hearing to the best of my ability.

I further certify that I am not related  
to any of the parties to this matter by  
blood or by marriage and that I am in no way  
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 13th day of December, 2021.



\_\_\_\_\_  
DEBORAH C. KNIESSER